United Nations A/HRC/25/NGO/1

General Assembly

Distr.: General
19 February 2014

English and Spanish only

Human Rights Council
Twenty-fifth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Permanent Assembly for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[09 January 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.14-11059
1411059

Please recycle

Torture in places of confinement

The Permanent Assembly for Human rights (APDH) in association with the National Prisoner Ombudsman (PPN) from Argentine, a national independent institution dedicated since 1993 to the promotion and protection of human rights of people in prison, would like to bring your attention to the situation of torture in detention centers.

The National Prisoner Ombudsman´s analysis is that torture in Federal Penitentiary Service is not an isolated event but rather a generalized practice. This diagnosis is based on a large number of investigations carried out by the institution. A research on 10% of the total detainee population at federal prisons, showed that 64% had been victims of torture and ill treatment.[1]

The National Prisoner Ombudsman has confirmed, trough the implementation of the *Investigation and documentation of torture or ill-treatment procedure* created on the principles and criteria of the Istanbul Protocol, 429 cases of torture and ill treatment in federal prisons in 2012, in addition to a large number of unreported cases due to fear of reprisal. While these figure indicates a 6% growth in the amount of episodes registered in comparison to the previous year; the 1358 documented cases over the 5 years of implementation of the protocol reveals that prison violence is an inherent characteristic of penitentiaries in today´s world.

On the other hand, as a result of a specific study carried out in every visited penitentiary unit and the implementation of the *Investigation and documentation of torture or ill-treatment procedure*, the National prisoner ombudsman' s National Register on cases of Torture[2] 2012, could identify 11 types of acts of torture and ill treatment committed the past year.[3]

In federal prisons torture becomes a managing mechanism of detained population. National Prisoner Ombudsman´s 2012 report states that... ***on regards of ill treatment it is possible to identify the rationality of its application. The extension of penitentiary ill treatment, its focalization on certain groups, the frequency of its application under particular circumstances and the specific spaces of prison allows an observer to identify the functionality of this violence. Torture and beatings presents a rationality with particular effects that inserts in a governing structure that connect this and other negotiation tools, such us, solitary confinement, hunger, social care abandonment, etc. Multiple strategies are combined according to the group of people intended to manage***[4]. In the same sense, the recently published Report on the Mission to Argentina of the Subcommittee on Prevention of Torture carried out in April, 2012, reveals that ***Many of the people who were interviewed (both young people and adults, including some***

[1] National Prisoner Ombudsman from Argentina, *Cuerpos Castigados. Malos tratos y torturas en cárceles federales*, Buenos Aires, Editores del Puerto 2008

[2] Established in 2010 following an agreement between the National Prisoner Ombudsman, the Committee against Torture of the Provincial Commission for Memory and the Group on criminal system and human rights studies of the Gino Germani Investigation Institute of the University of Buenos Aires.

[3] Physical aggressions, solitary confinement, threats, constant and grave transfers, poor material conditions of detention, lack or poor nutrition, lack or poor health care, robbery of personal belongings, family and social bond impediments, humiliating inspections.

[4] Annual Report 2012, National Prisoner Ombudsman from Argentina, Buenos Aires. Avaiable at www.ppn.gov.ar.

pregnant women) said that beatings and police brutality were "usual" and were often used to control detainees or force them to confess or as a reprisal for having complained about their conditions of detention.[5]

The practice of torture and other ill treatments is based, among other factors, on the serious failures of the penitentiary service system that inherited a violent institutional culture from the military dictatorship that rules the country in the 70's.Thus, the militarization of the penitentiary service reproduce on people deprived of their liberty the same treatment in violation of fundamental rights. The aforementioned combined with the high level of corruption prevalent in prisons and others failures of the System, contribute to the persistence of torture.

Another alarming fact of 2012 is the increase of violent deaths under Federal Penitentiary Service. Nation Prisoner Ombudsman´s report state ***it is especially alarming, in addition, the rise in the incidence of violent death on the total number of episodes. After the 47 death registered in 2009, a decrease was observed in 2010, 33 cases, rising to 39 cases the next year. By 2012 there has been documented 55 deaths, with an increase of 41% over the previous year, reaching historic levels that were considered outdated.***[6]

The Subcommittee on Prevention of Torture´s report expressed concern about:

- ✓ The lack of implementation of the National Prevention Mechanism
- ✓ The amendment made by the National Chamber of Senators dealing with the make-up of the National Committee for the Prevention of Torture allowing the interference of the executive branch.
- ✓ The creation of preventive provincial mechanism that do not enjoy the independence required under the terms of the Optional Protocol.

In its report the Subcommittee urges the state to…***ensure that the national preventive mechanism enjoys operational autonomy and independence and that it should refrain from appointing members to that mechanism who hold positions which could raise questions of conflicts of interest.***[7]

The signatories to this statement joint to the concerns expressed by the Group of Independent Experts, as we have done since the beginning of the debate on the mechanism bill back in 2007.

In the light of the above, the PPN consider it necessary that federal penitentiary service's authorities and political authorities should place the issue of torture in detention centers on the agenda; and therefore, design a plan for the eradication of this practice which should involved strategies of different scopes: appropriate selection and training of personnel, rigid controls and administrative and criminal sanctions, transfer of responsibilities and interventions to civilian areas- medical services, education, labour, social services- internal and external monitoring bodies, protection of claimants and victims of torture, among others.[8]

On December 2012, following a full debate, the national congress passed the law that creates the National Preventive Mechanism against Torture according to the principles of the Facultative Protocol, and establishing the National Prisoner Ombudsman as a permanent member of the monitoring body. After a year from its creation, the National

[5] Report on the Mission to Argentina of the Subcommittee on Prevention of Torture, advanced copy, 2012.
[6] National Prisoner Ombudsman, *op cit*, p 23.
[7] Subcommittee on Prevention of Torture, *op cit*, p4.
[8] National Prisoner Ombudsman, *op cit*, p 23.

Preventive Mechanism against Torture has not yet been regulated, thus, argentine state remains in default of its international commitments.

We are also concern about the limited number of provincial mechanism of prevention created. Until today, only 6 provinces (out of 23) have adopted the law, and only 2 monitoring bodies are really functioning experiencing great difficulties in terms of economic resources. The rest have not yet been implemented.

Finally, it is concerning the absence of a reply from the argentine state to the committee against torture as set out in article 19th of the convention. The last periodic report was submitted in 2004. In 2010 additional information was again requested on regards the information provided in the last report, giving the state the opportunity to fulfill its international responsibilities. The deadline set for the submission was august 2012, the state did not sent any reply.

We note there has been no progresses made on regards the committee against torture's remarks on the last report submitted in 2004. Cases of torture are still classified under inappropriate criminal offenses, no judicial investigations are conducted, and no protection is given to victims.

The Permanent Assembly for Human Rights and the National Prisoner Ombudsman hereby call on Argentine authorities to take effective measures to prevent torture and other cruel, inhuman or degrading treatment in detention or custody and to ensure these practices are duly investigated and prosecuted, as well as to promote democratization of the Penitentiary Service.